

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 RODNEY JEROME WOMACK,) No. C 09-2168 MMC (PR)
12 Plaintiff,) **ORDER OF TRANSFER**
13 v.)
14 C. BAKEWELL, et al.,)
15 Defendants.)
16 _____)

17 On May 18, 2009, plaintiff, a California prisoner incarcerated at the California State
18 Prison–New Folsom (“CSP New Folsom”) in Sacramento and proceeding pro se, filed the
19 above-titled civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff alleges that prison
20 employees at CSP New Folsom are violating his constitutional rights by denying him
21 adequate medical care. He seeks injunctive relief and monetary damages.

22 Venue may be raised by the court sua sponte where the defendant has not filed a
23 responsive pleading and the time for doing so has not run. See Costlow v. Weeks, 790 F.2d
24 1486, 1488 (9th Cir. 1986). When jurisdiction is not founded solely on diversity, venue is
25 proper in (1) the district in which any defendant resides, if all of the defendants reside in the
26 same state; (2) the district in which a substantial part of the events or omissions giving rise to
27 the claim occurred, or a substantial part of the property that is the subject of the action is
28 situated; or (3) a judicial district in which any defendant may be found, if there is no district

1 in which the action may otherwise be brought. See 28 U.S.C. § 1391(b). When venue is
2 improper, the district court has the discretion to either dismiss the case or transfer it “in the
3 interest of justice.” See 28 U.S.C. § 1406(a).

4 It is clear from the complaint that plaintiff’s claims arise out of acts allegedly
5 committed by prison employees at CSP New Folsom. Consequently, as CSP New Folsom is
6 located in Sacramento County, which, in turn, is located in the Eastern District of California,
7 venue is proper in the Eastern District, not in the Northern District. See 28 U.S.C. § 84(b).

8 Accordingly, in the interest of justice, and pursuant to 28 U.S.C. § 1406(a), the above-
9 titled action is hereby TRANSFERRED to the United States District Court for the Eastern
10 District of California. In light of the transfer, this Court will defer to the Eastern District
11 with respect to plaintiff’s application to proceed in forma pauperis.

12 This order terminates Docket No. 2.

13 IT IS SO ORDERED.

14 DATED: May 22, 2009


15 MAXINE M. CHESNEY
16 United States District Judge